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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Matthew Bennett,

Plaintiff,

vs.

United States Department of Veteran's
Affairs; Denis McDonough, in his official
capacity as United States Secretary of
Veterans Affairs,

Defendants.

Case No.:

COMPLAINT

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), against Defendants, the United States Department of Veteran's Affairs (hereinafter "VA" or "the Agency"), and Denis McDonough, in his official capacity as United States Secretary of Veterans Affairs, due to unlawful employment practices on the basis of race (African American), to provide appropriate relief for Plaintiff who was adversely affected

1 by such practices. As alleged with greater particularity in this Complaint, Plaintiff alleges
2 that the Defendants subjected Plaintiff to unlawful discrimination based on his race when
3 he was not selected for the Criminal Investigator position due to his race.

4 **JURISDICTION AND VENUE**

5 1. Jurisdiction of this Court is invoked pursuant to 28 U.S. Code § 1331, 1337,
6 1343(a)(4), and 1391(e)(1).

7 2. This action is authorized and instituted pursuant to sections 42 U.S.C. §
8 2000e-2(a)(1) and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

9 3. The employment practices alleged to be unlawful were committed within the
10 jurisdiction of the United States District Court for the District of Arizona.

11 **PARTIES**

12 4. Plaintiff, Matthew Bennett (hereinafter “Mr. Bennett” or “Plaintiff”), was at
13 all relevant times an employee of the Agency in Maricopa County, Arizona.

14 5. At all relevant times, the Agency has been a Government entity operating in
15 the State of Arizona.

16 6. At all relevant times, Defendant has continuously employed fifteen (15) or
17 more persons.

18 **ADMINISTRATIVE PROCEDURES**

19 7. On October 28, 2022, Plaintiff initiated Formal Complaint with the Agency’s
20 Office of Resolution Management, Diversity & Inclusion (ORMDI), alleging that he was
21 subjected to employment discrimination based on his race when he was not selected for the
22 Criminal Investigator position he applied to, and was further subjected to a hostile work
23 environment.

24 8. Mr. Bennett’s formal complaint was assigned VA Case No. 200P-644-2022-
25 147530.

1 9. On March 15, 2023, Plaintiff received the Agency's Final Agency Decision
2 substantiating that Mr. Bennett was subjected to an unlawful hostile work environment
3 based on his race, but failed to substantiate his discriminatory non-selection claim, entitling
4 him to pursue this claim in Federal District Court by January 11, 2024.

5 10. All conditions precedent to the institution of this lawsuit have been fulfilled.

6 **FACTUAL ALLEGATIONS**

7 11. While successfully fulfilling his responsibilities to the Agency, Mr. Bennett
8 applied for the Criminal Investigator position within the Agency and was interviewed on
9 July 27, 2023.

10 12. The interview panel consisted of Mr. Joshua Fister, Mr. Frederick Dewerth,
11 and Mr. Joseph Owens, while the selecting official was Mr. Taylor Whitt.

12 13. At the time of events giving rise to Mr. Bennett's claims, Ms. Fister was Mr.
13 Bennett's second-level supervisor and held the position of Supervisory Police Officer.

14 14. Beginning in July 2020, Mr. Fister subjected Mr. Bennett to an unlawful
15 hostile work environment based on his race, as substantiated by the Agency's own Final
16 Agency Decision in VA Case No. 200P-644-2022-147530.

17 15. The hostile work environment Mr. Fister subjected Mr. Bennett to, which
18 was substantiated by documentary evidence and witness testimony, included Racially
19 offensive commentary and a detrimental difference in treatment as compared to his
20 similarly situated colleagues outside of his protected class, leading the Agency to recognize
21 their liability for the unlawful hostile work environment.

22 16. The Agency failed to recognize that Mr. Fister's presence on the interview
23 panel was a detriment to Mr. Bennett based on Mr. Fister's discriminatory animus toward
24 Mr. Bennett based on his race.

22. At the time of events giving rise to Mr. Bennett's claims, Mr. Bennett had demonstrably superior qualification for the Criminal Investigator position as compared to the two selected candidates who are outside of his protected class.

[Employment Discrimination – Race – 42 U.S.C. § 2000e-2(a)(1)]

24. Defendant engaged in unlawful employment practices in Arizona, in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1), by selecting candidates outside of his protected class with demonstrably inferior qualifications to fill the Criminal Investigator position.

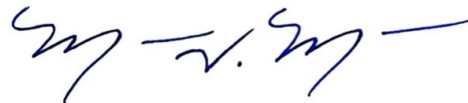
1 A. Order Defendants to make Mr. Bennett whole by providing compensation for
2 past and future pecuniary losses resulting from the unlawful practices described above, in
3 amounts to be determined at trial.

4 B. Order Defendants to make the aggrieved individuals whole by providing
5 compensation for past and future non-pecuniary losses, pursuant to Title VII, resulting
6 from the unlawful practices described above, including but not limited to emotional pain,
7 suffering, inconvenience, mental anguish, humiliation, and loss of enjoyment of life, in
8 amounts to be determined at trial.

9
10 C. Grant such further relief as the Court deems necessary and proper in the
11 public interest.

12
13 RESPECTFULLY SUBMITTED this 11th day of January 2024.

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